Hatten, 42 Ia. 288; *Omaha, Etc., R. Co.* v. *Chollette,* 41 Neb. 578. The courts of Massachusetts and Connecticut have taken the view that such action is no longer maintainable. *Bolger* v. *Boston Elevated R. Co.*, 205 Mass. 420; *Marri* v. *Stamford St. R. Co.,* 84 Conn. 9. The courts taking the view that an action for the loss of consortium is still maintainable by the husband in an action of this kind draw a distinction between a wife's capacity for productive service in business and her capacity for domestic service in the home, and permit the wife to recover for the former and the husband for the latter. This view was also taken by the Michigan court in a late case. *Gregory* v. *Oakland Motor Car Co.*, 147 N. W. 614. The Massachusetts and Connecticut cases above make no such distinction and permit the wife to make a full recovery for the loss of her capacity for service. If it be admitted, as was stated in the Connecticut case, supra, that the right to service was a prominent factor in consortium at common law, there would seem to be no good reason for holding that modern legislation has taken away the husband's right to sue for loss for consortium in a jurisdiction, like Michigan, where the wife cannot recover damages for loss of ability to perform domestic service.

INSURANCE.—ACCIDENT.—Action was brought on an insurance policy providing for the payment of a specified sum in case the insured came to his "death as the result of an accident." The insured died as a result of ptomaine poisoning caused by eating tainted food. *Held,* that death by ptomaine poisoning was an accident within the meaning of the policy and that the insurer was liable. *Johnson* v. *Fid. & Cas. Co.* (Mich. 1915) 151 N. W. 693.

The only other case in which a similar question seems to have been presented is that of *Maryland Cas. Co.* v. *Hudgins,* 97 Tex. 124. In that case, as in this, it was suggested that while the eating of food was not accidental, the eating of spoiled food was accidental because the insured intended to take only nourishing food. The court avoided the issue on this point but declared that it presented a rather "shadowy distinction." The case was decided on other grounds. Many cases have been held to present "an accident" within the meaning of an insurance policy where the act or event causing the death was due to actual mistake, as when the insured accidentally took poison (*Trav. Ins. Co.* v. *Dunlap,* 160 Ill. 642); or when the happening was unexpected and unavoidable by the insured, as a disease induced by a fall (*Freeman* v. *Mer. Mut. Acci. Asso.* 156 Mass. 351; *Lehman* v. *Great West. Acci. Asso.,* 155 Iowa 737, 42 L. R. A. (N. S.) 562, or where the insured acted voluntarily but under such circumstances that no harm could reasonably have been expected to follow. (*U. S. Mut. Acci. Asso.* v. *Barry,* 131 U. S. 100). But in these cases, as in nearly all involving the definition of an accident, the element of *chance* was closely related to the act or event which was held to be the accidental *means* or course of the result. In the instant case, however, this element of *chance* is lacking. The happening or act which preceded the disease was voluntarily undertaken and evidences *election* and judgment rather than mistake. It is true that the *result* was unexpected and unforseen, and thereby within the definition of an accident generally

accepted. *Paul* v. *Trav. Ins. Co.*, 112 N. Y. 472; *Ripley* v. *Ry. Assur. Co.*, 16 Wall. 336; *Dozier* v. *Fid. & Cas. Co.*, 46 Fed. 446; RICHARDS, INSURANCE, 538; VANCE, INSURANCE, 566. But if the distinction be maintained between accidental *result* and accidental *means*, then it would seem that the act which preceded the poisoning,—that is, the eating of the food,—was voluntary and unattended with any chance or unforeseen occurrence which would render it an accident.

INSURANCE.—PAROL CONTRACTS.—Plaintiff applied to defendant's authorized agents for two policies of insurance on two lots of tobacco, one for $3,000 and the other for $2,500. The agents agreed that they would insure the tobacco and, not being able to issue the policy immediately, executed two writings, known as "binders," specifying insurance from that date, and stating the property insured, the parties, the period of risk, and the amount of insurance. This was in accordance with the usual practice followed in insuring tobacco. The tobacco was destroyed before the policies had been issued and delivered to plaintiff. A standard form of policy was prescribed by statute. Defendant having refused to pay the amount of the insurance plaintiff brought action on the two contracts. *Held*, that plaintiff was entitled to recover, in that a parol contract of insurance is valid even though a standard form has been adopted by statute, the statute "never being intended to furnish the opportunity or temptation to a company to change the form of the contract and thereby escape liability." *Lea* v. *Atl. Fire Ins. Co.*, (N. C. 1915) 84 S. E. 813.

The great weight of American authority concedes that an oral or parol contract of insurance is valid; 1 MAY, INSURANCE, (3rd. ed.) 26; RICHARDS, INSURANCE, 102; VANCE, INSURANCE, 155; 19 CYC. 600; and that a "binder" or memorandum, such as that issued in the instant case, evidences a binding contract of insurance. *Van Tassel* v. *Greenwich Ins. Co.*, 184 N. Y. 607; *Kerr* v. *Ins. Co.*, 124 Fed. 835. In this case, however, the further question is presented as to whether a parol contract of insurance is rendered invalid by the fact that a standard form of policy has been prescribed by statute. While most decisions state that a parol contract of insurance is valid *"unless prohibited by statute,"* there appear to be only two cases in which this precise question has been directly passed upon. *Hicks* v. *Ins. Co.*, 162 N. Y. 284; *Floars* v. *Ins. Co.*, 144 N. C. 232. In these cases, the proposition was made that "the enactment of a statute which establishes a standard form for a policy, the statute being only affirmative in its terms, will not invalidate an oral contract; * * * the law will read into the contract the standard policy as fixed by the statute." The same view has been taken in various other cases but only in peculiar circumstances, and never in such general terms and in such precise language. *Commercial Ins. Co.* v. *Union Ins. Co.*, 19 How. 318; *Walker* v. *Mut. Ins. Co.*, 56 Me. 371. It would seem to find additional support, however, in the principle that a statute which prescribes a standard policy is not intended to visit a penalty on the insured for failure to adopt the form designated. *Blount* v. *Frat. Assn.*, 163 N. C. 170; *Armstrong* v. *Ins. Co.*, 95 Mich. 139.